

ORIGINAL

4
6/19/01
JD

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ERIC JOSEPH EPSTEIN)

Plaintiff,)

v.)

Civ. No. 01-0682

Judge Kane

SPENCER ABRAHAM, Secretary of the)

U.S. Department of Energy; HERBERT)

WATKINS, Contracting Officer, U.S.)

Department of Energy)

Defendants.)

FILED
HARRISBURG

JUN 18 2001

MARY E. D'ANDREA, CLERK
Per. AK
DEPUTY CLERK

**DEFENDANTS' MOTION TO DISMISS PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)**

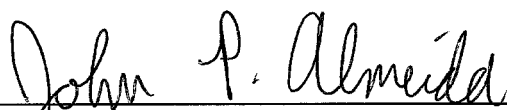
Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants hereby move the Court to dismiss Plaintiff's claims set forth in Plaintiff's Complaint for failing to state a claim upon which relief can be granted. As explained in Defendants' Memorandum in Support of Defendants' Motion to Dismiss, Defendants are entitled to judgment as a matter of law as Plaintiff's claims cannot

be supported by the statutes upon which Plaintiff bases his claims. This Court should grant Defendants' Motion and dismiss Plaintiff's claims with prejudice.

DATED this 15th day of June, 2001.

Respectfully submitted,

JOHN C. CRUDEN
Acting Assistant Attorney General




JOHN P. ALMEIDA
Massachusetts State Bar #643441
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044
(202)305-0245 (telephone)
(202)305-0506 (fax)

Attorney for Defendant

CERTIFICATE OF CONCURRENCE

The undersigned hereby certifies that in accordance with Local Rule 7.1, counsel for Defendants sought concurrence from Plaintiff prior to filing this Motion, but concurrence was denied.



John P. Almeida
Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of June, 2001 a copy of the foregoing MOTION TO DISMISS, and PROPOSED ORDER GRANTING MOTION TO DISMISS has been served on Plaintiff by first-class United States Mail at the following address:

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

A courtesy copy of the filing was also sent by facsimile to Mr. Epstein at (717)541-5487.

John P. Almeida